

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.14, the Department of Revenue hereby amends Chapter 231, “Exemptions Primarily of Benefit to Consumers,” Iowa Administrative Code.

The rules in Chapter 231 implement the sales and use tax, as required under the Streamlined Sales and Use Tax Agreement. This amendment clarifies examples of candy subject to sales and use tax as candy.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 2, p. 103, on July 23, 2014, as **ARC 1544C**. No comments were received from the public. The following change has been made to the amendment published under Notice of Intended Action:

In paragraph 231.4(2)“b,” the examples of nontaxable items now include “prepared fruit in a sugar or similar base.” Former subrule 231.4(2) included “prepared fruit in a sugar or similar base” as an example of a nontaxable item, and that item was inadvertently omitted from the Notice of Intended Action.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 423.3(57)“b.”

This amendment will become effective on November 19, 2014.

The following amendment is adopted.

Rescind subrule 231.4(2) and adopt the following new subrule in lieu thereof:

231.4(2) Nonexclusive examples.

a. Taxable candy. Examples of items taxable as candy include, but are not limited to: preparations of fruits, nuts, or other ingredients in combination with sugar, honey, or other natural or artificial sweeteners in the form of bars, drops, or pieces; caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; hard or soft candies including jellybeans, taffy, licorice not containing flour, marshmallows, and mints; dried fruit leathers or other similar products prepared with natural or artificial sweeteners; candy breath mints; chewing gum; and mixes of candy pieces.

Sales of items which are normally sold for use as ingredients in recipes but which can be eaten as candy are taxable on and after July 1, 2004. Examples of these items include, but are not limited to: sweetened baking chocolate in bars or pieces; white and dark chocolate almond bark; toffee bits; M&M’s, including those sold for baking; candy primarily intended for decorating baked goods; and sweetened baking chips, including mint chips, peanut butter chips, butterscotch chips, and chocolate chips.

b. Nontaxable items. Sales of the following are generally not taxable as candy: jams, jellies, preserves, or syrups; frostings; dried fruits without added sweetener; breakfast cereals; prepared fruit in a sugar or similar base; ice cream or other frozen desserts covered with chocolate or similar coverings; cotton candy; cakes, cookies, and similar products covered with chocolate or other similar coating; and granola bars. However, these and similar items are taxable if sold as prepared food under rule 701—231.5(423).

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.